

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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PATRICIA GONZALEZ and JENNIFER  
GONZALEZ, individually and as co-  
administrators of the Estate of KENNY LAZO,

Plaintiffs,

-against-

**DEFENDANTS' PROPOSED  
VERDICT SHEET**

09-cv-1023 (ST)

COUNTY OF SUFFOLK, SUFFOLK  
POLICE DEPARTMENT, POLICE  
COMMISSIONER RICHARD DORMER, in  
his individual and official capacity, POLICE  
OFFICER JOHN NEWTON, in his individual  
and official capacity, POLICE OFFICER  
JAMES SCIMONE, in his individual and  
official capacity, POLICE OFFICER  
WILLIAM JUDGE, in his individual and  
official capacity, POLICE OFFICER  
CHRISTOPHER TALT, in his individual and  
official capacity, POLICE OFFICER LINK, ,  
in his individual and official capacity,  
COUNTY OF SUFFOLK OFFICE OF  
DISTRICT ATTORNEY, SUFFOLK  
COUNTY DISTRICT ATTORNEY THOMAS  
SPOTA, in his individual and official capacity,  
ASST. DISTRICT ATTORNEY JOHN B.  
COLLINS, in his individual and official  
capacity, and "JOHN AND JANE DOES 1-10"  
representing as yet unknown and unidentified  
members of the Office of the Suffolk County  
District Attorney (all in their individual and  
official capacities as employees of the Office  
of Suffolk County District Attorney),

Defendants.

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Pursuant to Rule 49 of the Federal Rules of Civil Procedure, the Defendants submit the following Proposed Verdict Sheet in connection with the trial of this action. The Defendants reserve their right to submit an amended Proposed Verdict Sheet based upon the progress of the

remainder of the trial. In addition, the Defendants respectfully advise the Court at this time of their intention to submit interrogatories to the jury relating to qualified immunity, as necessary.

**LIABILITY AND DAMAGES**

**Count 1: False Arrest**

1. Did any or all of the Defendants show, by a preponderance of the evidence, that they had probable cause to arrest Kenny Lazo for harassment?

JOHN NEWTON	YES _____	NO _____
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JAMES SCIMONE	YES _____	NO _____
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WILLIAM JUDGE	YES _____	NO _____
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CHRISTOPHER TALT	YES _____	NO _____
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JOSEPH LINK	YES _____	NO _____
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If the answer to Question 1 is “Yes” for any or all of the Defendants, you have found that/those Defendant(s) are not liable for the false arrest claim. Please proceed to Count 2 for those Defendants and skip the remainder of this Count for those Defendants. Otherwise, please proceed to Question 2.

2. Did the Plaintiffs show, by a preponderance of the evidence, that any or all of the Defendants committed a false arrest of Kenny Lazo that was a proximate cause of injuries to Kenny Lazo? Please only answer with regard to the Defendant(s) with respect to whom you answered “No” in Question 1 of this Count.

JOHN NEWTON	YES _____	NO _____
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JAMES SCIMONE	YES _____	NO _____
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WILLIAM JUDGE	YES _____	NO _____
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CHRISTOPHER TALT	YES _____	NO _____
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JOSEPH LINK	YES _____	NO _____
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If the answer to Question 2 is “Yes” for any or all of the Defendants, you have found that/those Defendant(s) are liable for the false arrest claim; please proceed to Count 2. If the answer to Question 2 is “No” for any or all of the Defendants, you have found that/those Defendant(s) are not liable for the false arrest claim; please proceed to Count 2.

Count 2: Excessive Force

1. Did the Plaintiffs show, by a preponderance of the evidence, that any of the Defendants used excessive force against Kenny Lazo?

JOHN NEWTON	YES _____	NO _____
JAMES SCIMONE	YES _____	NO _____
WILLIAM JUDGE	YES _____	NO _____
CHRISTOPHER TALT	YES _____	NO _____
JOSEPH LINK	YES _____	NO _____

If the answer to Question 1 is “No” with respect to any of the Defendants, you have found those Defendants not liable for the excessive force claim; please proceed to Count 4 for those Defendants and skip the remainder of this Count for those Defendants. Otherwise, please proceed to Question 2.

2. Did the Plaintiffs show, by a preponderance of the evidence, that any of the Defendants used excessive force against Kenny Lazo? Please only answer with regard to the Defendant(s) with respect to whom you answered “Yes” in Question 1 of this Count.

JOHN NEWTON	YES _____	NO _____
JAMES SCIMONE	YES _____	NO _____
WILLIAM JUDGE	YES _____	NO _____
CHRISTOPHER TALT	YES _____	NO _____
JOSEPH LINK	YES _____	NO _____

If the answer to Question 2 is “Yes” for any of the Defendants, you have found that/those Defendant(s) is/are liable for the excessive force claim; please proceed to Count 3. If the answer

to Question 2 is “No” for all of the Defendants, you have found that those Defendants are not liable for the excessive force claim; please proceed to Count 4.

Count 3: Failure to Intervene

1. Did the Plaintiffs show, by a preponderance of the evidence, that any of the Defendants observed excessive force against Kenny Lazo and knew it was unlawful?

JOHN NEWTON	YES _____	NO _____
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JAMES SCIMONE	YES _____	NO _____
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WILLIAM JUDGE	YES _____	NO _____
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CHRISTOPHER TALT	YES _____	NO _____
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JOSEPH LINK	YES _____	NO _____
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If the answer to Question 1 is “No” with respect to any of the Defendants, you have found those Defendants not liable for the failure to intervene claim; please proceed to Count 5 for those Defendants and skip the remainder of this Count for those Defendants. Otherwise, please proceed to Question 2.

2. Did the Plaintiffs show, by a preponderance of the evidence, that any of the Defendants had a realistic opportunity to intervene, having sufficient time to intercede and a capability to prevent the harm? Please only answer with regard to the Defendant(s) with respect to whom you answered “Yes” in Question 1 of this Count.

JOHN NEWTON	YES _____	NO _____
JAMES SCIMONE	YES _____	NO _____
WILLIAM JUDGE	YES _____	NO _____
CHRISTOPHER TALT	YES _____	NO _____
JOSEPH LINK	YES _____	NO _____

If the answer to Question 2 is “No” with respect to any of the Defendants, you have found those Defendants not liable for the failure to intervene claim; please proceed to Count 5 for those Defendants and skip the remainder of this Count for those Defendants. Otherwise, please proceed to Question 3.

3. Did the Plaintiffs show, by a preponderance of the evidence, that any of the Defendants failed to take reasonable steps to prevent the violations of Kenny Lazo’s constitutional rights? Please only answer with regard to the Defendant(s) with respect to whom you answered “Yes” in Question 2 of this Count.

JOHN NEWTON	YES _____	NO _____
JAMES SCIMONE	YES _____	NO _____
WILLIAM JUDGE	YES _____	NO _____
CHRISTOPHER TALT	YES _____	NO _____
JOSEPH LINK	YES _____	NO _____

If the answer to Question 3 is “No” with respect to any of the Defendants, you have found those Defendants not liable for the failure to intervene claim; please proceed to Count 5 for those Defendants and skip the remainder of this Count for those Defendants. Otherwise, you have found those Defendants liable for the failure to intervene claim. Please proceed to Count 5.

Count 4: Municipal Liability

You will only consider this claim against the County of Suffolk if you have found in favor of the Plaintiffs on at least one of the claims of excessive force or failure to intervene in violation of Kenny Lazo’s federal constitutional rights. If you have not, please proceed to Count 5. Otherwise, proceed to Question 1 below.

1. Did the Plaintiffs prove, by a preponderance of the evidence, a violation of Kenny Lazo’s rights pursuant to a long-standing custom or practice of the County of Suffolk?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the answer to Question 1 is “No,” you have found that the County of Suffolk is not subject to municipal liability; please proceed to Count 5. Otherwise, please proceed to Question 2 of this Count.

2. Did the Plaintiffs prove, by a preponderance of the evidence, that the policy makers of the County of Suffolk either approved or were deliberately indifferent to the custom or practice?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the answer to Question 2 is “No,” you have found that the County of Suffolk is not subject to municipal liability; please proceed to Count 5. If the answer to Question 2 is “Yes,” you have found that the County of Suffolk is subject to municipal liability; please proceed to Count 5.

Count 5: Wrongful Death

1. Did the Plaintiffs prove, by a preponderance of the evidence, that any Defendant caused the wrongful death of Kenny Lazo?

JOHN NEWTON	YES _____	NO _____
JAMES SCIMONE	YES _____	NO _____
WILLIAM JUDGE	YES _____	NO _____
CHRISTOPHER TALT	YES _____	NO _____
JOSEPH LINK	YES _____	NO _____

If the answer to Question 1 is “No” with respect to any of the Defendants, you have found that/those Defendant(s) not liable for the wrongful death claim; please proceed to Count 6.

If the answer to Question 1 is “Yes” with respect to any of the Defendants, you have found that/those Defendant(s) liable for the wrongful death claim; please proceed to Count 6.

Count 6: Battery

1. Did the Plaintiffs prove, by a preponderance of the evidence, that any Defendant exercised unreasonable, excessive force in the commission of their public duty, given the totality of the circumstances, subjecting Kenny Lazo to a Battery?

JOHN NEWTON	YES _____	NO _____
JAMES SCIMONE	YES _____	NO _____
WILLIAM JUDGE	YES _____	NO _____
CHRISTOPHER TALT	YES _____	NO _____
JOSEPH LINK	YES _____	NO _____



If the answer to Question 1 is “No” with respect to any of the Defendants, you have found that/those Defendant(s) not liable for the battery claim; please proceed to Count 7. If the answer to Question 1 is “Yes” with respect to any of the Defendants, you have found that/those Defendant(s) liable for the battery claim; please proceed to Count 7.

Count 7: Negligence

1. Did the Plaintiffs prove, by a preponderance of the evidence, that any Defendant was negligent?

JOHN NEWTON	YES _____	NO _____
JAMES SCIMONE	YES _____	NO _____
WILLIAM JUDGE	YES _____	NO _____
CHRISTOPHER TALT	YES _____	NO _____
JOSEPH LINK	YES _____	NO _____

If the answer to Question 1 is “No” with respect to any of the Defendants, you have found that/those Defendant(s) not liable for the battery claim; please proceed to Damages. If the answer to Question 1 is “Yes” with respect to any of the Defendants, you have found that/those Defendant(s) liable for the battery claim; please proceed to Damages.

Damages

Nominal Damages: Fill out only if you answered “Yes” to any of the following: Count 1, Question 2; Count 2, Question 2; Count 3, Question 3; Count 4, Question 2; Count 5, Question 1; Count 6, Question 1; or Count 7, Question 1.

Please indicate whether you determine that Plaintiffs are entitled to nominal damages of \$1 as to each Defendant’s liability. Do not award nominal damages if you will be awarding compensatory damages as to that Defendant’s liability.

JOHN NEWTON	YES _____	NO _____
JAMES SCIMONE	YES _____	NO _____
WILLIAM JUDGE	YES _____	NO _____
CHRISTOPHER TALT	YES _____	NO _____
JOSEPH LINK	YES _____	NO _____

Compensatory Damages: Fill out only if you answered “Yes” to any of the following: Count 1, Question 2; Count 2, Question 2; Count 3, Question 3; Count 4, Question 2; Count 5, Question 1; Count 6, Question 1; or Count 7, Question 1.

1. What amount do you find is fair and reasonable to compensate Plaintiffs for GENERAL damages (*e.g.* loss of time, humiliation, and mental suffering)?

\$ \_\_\_\_\_

2. What amount do you find is fair and reasonable to compensate Plaintiffs for SPECIAL damages (*e.g.* physical discomfort or injury to health)?

\$ \_\_\_\_\_

Punitive Damages: Fill out only if you answered “Yes” to any of the following: Count 1, Question 2; Count 2, Question 2; Count 3, Question 3; Count 5, Question 1; or Count 6, Question 1.

What amount do you find is fair and reasonable to award Plaintiffs in punitive damages?

\$ \_\_\_\_\_

You have reached a verdict. The Foreperson should date and sign below. Then you should advise the Court that you have completed your deliberations.

Dated: Central Islip, New York  
August \_\_, 2023

Signed: \_\_\_\_\_  
Foreperson